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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/802,169	03/08/2001	Christopher Keith	0505-4012	1150

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EXAMINER

GRAHAM, CLEMENT B

ART UNIT PAPER NUMBER

3628

DATE MAILED: 08/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/802,169

Applicant(s)

KEITH, CHRISTOPHER

Examiner

Clement B Graham

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on March 08, 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2004/18/08</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION
Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-31, are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two prong test of:

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) are found to be non-statutory subject matter. For a process claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts. In the present case, claims 1-31, do not recite any structure or functionality to suggest that a computer performs the recited claims. Thus, claims 1-31, are rejected as being directed to non-statutory subject matter.

Claim Rejections - 35 USC § 102

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-31, are rejected under 35 U.S.C. 102(b) as being anticipated by Trojan et al (Hereinafter U.S Patent No. 5, 297, 032).

As per claim 1, Trojan discloses a method of facilitating trading, comprising:

automatically providing a price inquiry to a market process having an order file, and automatically requesting that the market process notify its crowd of a price improvement opportunity.(see column 3 lines 50-65 and column 4 lines 5-40).

As per claim 2, Trojan discloses further comprising trading at a price provided by the Crowd ("i. e, orders "see column 1 lines 15-25).

As per claim 3, Trojan discloses wherein the automatically providing and requesting are performed by a trading process.(see column 2 lines 25-65).

As per claim 4, Trojan discloses a method of providing a crowd price, comprising: automatically receiving notice of an opportunity to improve upon a book price, automatically determining whether to improve upon the book price, and automatically providing a crowd price that improves the book price when the determination is positive.(Note abstract and see column 3 lines 50-65 and column 4 lines 5-40).

As per claim 5, Trojan discloses wherein the determining is in accordance with an order processing methodology.(see column 1 lines 15-25).

As per claim 6, Trojan discloses wherein the order processing methodology is represented in a decision table.(see column 2 lines 25-65 and column 3 lines 50-65 and column 4 lines 5-40).

As per claim 7 Trojan discloses wherein the determining includes requesting an instruction from a user. (see column 2 lines 25-65 and column 3 lines 50-65 and column 4 lines 5-40).

As per claim 8, Trojan discloses further comprising automatically registering as part of a crowd to receive the price improvement opportunity notice. (Note abstract and see column 3 lines 50-65 and column 4 lines 5-40).

As per claim 9, Trojan discloses wherein the automatically registering occurs with a market process.(Note abstract and see column 3 lines 50-65 and column 4 lines 5-40).

As per claim 10 , Trojan discloses wherein the automatically receiving notice, determining and providing a crowd price are performed by a trading process. (see column 2 lines 25-65 and column 3 lines 50-65 and column 4 lines 5-40).

As per claim 11, Trojan discloses a method of providing a crowd price, comprising: automatically receiving notice of a proposed pairing price, automatically determining whether to improve upon the proposed pairing price, and automatically providing a crowd price that improves the proposed pairing price when the determination is positive. (Note abstract and see column 2 lines 25-65 and column 3 lines 50-65 and column 4 lines 5-40).

As per claim 12, Trojan discloses wherein the determining is in accordance with an order processing methodology.(see column 1 lines 15-25).

As per claim 13, Trojan discloses wherein the order processing methodology is represented in a decision table.(see column 2 lines 25-65 and column 3 lines 50-65 and column 4 lines 5-40).

As per claim 14, Trojan discloses wherein the determining includes requesting an instruction from a user.(see column 2 lines 25-65).

As per claim 15, Trojan discloses further comprising automatically registering as part of a crowd to receive the proposed pairing price notice.(see column 12 lines 10-60).

As per claim 16, Trojan discloses wherein the automatically registering occurs with a market process. .(Note abstract and see column 3 lines 50-65 and column 4 lines 5-40).

As per claim 17, Trojan discloses wherein the automatically receiving notice, determining and providing a crowd price are performed by a trading process. (Note abstract and see column 3 lines 50-65 and column 4 lines 5-40).

As per claim 18, Trojan discloses a method of providing price discovery, comprising:
automatically notifying a crowd of an opportunity to improve upon a book price, automatically receiving a crowd price from the crowd, and automatically providing the crowd price as a response when the crowd price is better than the book price. (Note abstract and see column 3 lines 50-65 and column 4 lines 5-40).

As per claim 19, Trojan discloses wherein the automatically providing occurs in response to a price inquiry according to a published delay time. (Note abstract and see column 3 lines 50-65 and column 4 lines 5-40).

As per claim 20, Trojan discloses wherein when the crowd price is provided as a response, a pairing must occur. (see column 3 lines 50-65 and column 4 lines 5-40).

As per claim 21, Trojan discloses comprising receiving a price inquiry specifying that the response to the price inquiry should occur after automatically notifying the crowd of the price improvement opportunity. (Note abstract and see column 3 lines 50-65 and column 4 lines 5-40).

As per claim 22, Trojan discloses wherein the automatically notifying, receiving and providing are performed by a market process. (Note abstract and see column 3 lines 50-65 and column 4 lines 5-40).

As per claim 23, Trojan discloses wherein the crowd comprises registered trading processes. (Note abstract and see column 3 lines 50-65 and column 4 lines 5-40).

As per claim 24, Trojan discloses a comprising: automatically notifying a crowd of a proposed pairing price, automatically receiving a crowd price from the crowd, and automatically pairing with the crowd price when the crowd price is better than the proposed pairing price. (Note abstract and see column 3 lines 50-65 and column 4 lines 5-40).

As per claim 25, Trojan discloses wherein the automatically pairing occurs according to a published delay time. (Note abstract and see column 3 lines 50-65 and column 4 lines 5-40).

As per claim 26, Trojan discloses wherein the published delay time is less than one second. (see column 2 lines 25-65 and column 3 lines 50-65).

As per claim 27, Trojan discloses wherein the published delay time is greater than one second. (see column 2 lines 25-65 and column 3 lines 50-65).

As per claim 28, Trojan discloses further comprising determining that a next pairing will be at the proposed pairing price different than a previous pairing price. (Note abstract and see column 3 lines 50-65 and column 4 lines 5-40).

As per claim 29, Trojan discloses wherein the proposed pairing price is the best price from a file of stored orders. (Note abstract and see column 3 lines 50-65 and column 4 lines 5-40).

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As per claim 30, Trojan discloses wherein the automatically notifying, receiving and pairing are performed by a market process. (Note abstract and see column 3 lines 50-65 and column 4 lines 5-40).

As per claim 31, Trojan discloses wherein the crowd comprises registered trading processes. (Note abstract and see column 3 lines 50-65 and column 4 lines 5-40).

Conclusion

4. The prior art of record and not relied upon is considered pertinent to Applicants disclosure.

Koehn(US 6,068, 117 Patent) teaches book insert cd carrier device

Takahashi et al (US Patent 5, 847, 845) teaches book document reading device.

Steffens (US Patent 6, 160, 204) teaches ployphenol oxidase cDNA


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clement B Graham whose telephone number is 703-305-1874. The examiner can normally be reached on 7am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S. Sough can be reached on 703-308-0505. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-0040 for regular communications and 703-305-0040 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

CG

August 18, 2004


FRANTZY POINVIL
PRIMARY EXAMINER
Art 3628